BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF THE DAYTON POWER AND LIGHT COMPANY FOR APPROVAL OF ITS MARKET RATE OFFER. CASE NO. 12-426-EL-SSO

IN THE MATTER OF THE APPLICATION OF THE DAYTON POWER AND LIGHT COMPANY FOR APPROVAL OF REVISED TARIFFS. CASE NO. 12-427-EL-ATA

IN THE MATTER OF THE APPLICATION OF THE DAYTON POWER AND LIGHT COMPANY FOR APPROVAL OF CERTAIN ACCOUNTING AUTHORITY. CASE NO. 12-428-EL-AAM

IN THE MATTER OF THE APPLICATION OF THE DAYTON POWER AND LIGHT COMPANY FOR WAIVER OF CERTAIN COMMISSION RULES. CASE NO. 12-429-EL-WVR

IN THE MATTER OF THE APPLICATION OF THE DAYTON POWER AND LIGHT COMPANY TO ESTABLISH TARIFF RIDERS. CASE NO. 12-672-EL-RDR

Deposition of GREGORY SLONE, Witness herein, called by The Dayton Power and Light Company for cross-examination pursuant to the Rules of Civil Procedure, taken before me, Beverly W. Dillman, a Notary Public in and for the State of Ohio, at the Office of the Ohio Consumers' Counsel, 10 West Broad Street, Suite 1800, Columbus, Ohio, on Thursday, March 7, 2013, at 2:32 o'clock p.m.

APPEARANCES:

On behalf of The Dayton Power and Light Company:

Faruki, Ireland & Cox P.L.L.

By: Jeffrey S. Sharkey
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On behalf of the Office of the Ohio Consumers' Counsel:

Office of the Ohio Consumers' Counsel

By: Melissa R. Yost
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On behalf of the Ohio Partners for Affordable Energy:

Ohio Partners for Affordable Energy

By: Colleen L. Mooney (via telephone)
Attorney at Law
231 West Lima Street
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ALSO PRESENT:

Donna Seger-Lawson (via telephone)

* * *

MR. SHARKEY: We are going to get started. Anybody else on the phone besides Donna and Colleen?

(No response.)

GREGORY SLONE

of lawful age, Witness herein, having been first duly cautioned and sworn, as hereinafter certified, was examined and said as follows:

CROSS-EXAMINATION

BY MR. SHARKEY:

Q. Good afternoon, Ms. Slone -- Ms. Slone. It's been a long day already.

Mr. Slone, my name is Jeff Sharkey, and I represent The Dayton Power and Light Company. Can you state your name for the record, please?

A. My name is Gregory Slone.

Q. Okay. And you are a senior energy analyst at OCC?

A. That's correct.

Q. And you have been in that position since May of 2010?

A. Correct.

Q. Okay. Can you describe for me with a little bit more detail the nature of your responsibilities at American Municipal Power?

A. Well, I started off my time there managing a gas marketing program that they had. Shortly, that was -- wound up selling the business; then I created and managed for a couple of years a municipal consulting business for electric and gas aggregation.

Later, I was -- I had dispatch center report to me for a while. I later became responsible for all the fuel procurement, our coal and gas emission allowances.

And then in the last few years I also was responsible for our generating facilities, our coal plant, hydro plant; and for six to eight months, I guess, I was involved with -- I was in charge of the construction of a coal plant, or trying to do a coal plant.

So it's not a large organization, 120, 130 people, and it really -- the best way I can describe AMP is it's sort of a shared service organization for 120, 130 municipal electric systems across a five-state area.

Q. Did you have any responsibility, while you were at AMP, for determining the price at which it would sell generation?

A. I was responsible for helping develop what we called a postage stamp rate for our coal plant.

Q. What was -- when you say postage stamp rate, what does that mean?

A. Basically, the price that everybody paid for the power. What -- the municipalities were set up -- it's not every municipality took power out of the coal plant. It was a small, 200-megawatt, four-unit plant. But those that did took it in varying degrees. They all paid the same rate. So it was a -- you know, a combination of our O&M costs, our fuel costs, our emission costs to come up with that rate.

And, of course, there wasn't a profit component to it; it was whatever our costs were, what people paid. So from that standpoint I was involved.

Q. Okay. Did AMP sell excess generation, beyond what was needed to serve those member municipalities, into the market?

A. There were times.

Q. And I assume that that was -- well, strike that.

Was that just a sale in the PJM

markets?

A. Yes, as far as I recall.

Q. So to your knowledge, AMP would have received whatever the prevailing market price was for those transactions?

A. Correct.

Q. Did AMP enter into any wholesale contracts to provide power for anybody other than the municipality members?

A. Not that I recall.

Q. So if I understand accurately, at AMP there were -- what AMP was, there were four member municipalities?

A. 120.

Q. Oh.

A. Over five states.

Q. Okay. I badly misunderstood you earlier. There were 120 --

A. I'm sorry, to clarify, the four you probably remember, I said there were four units that made up the station, four separate boilers, turbines.

Q. That's what I misunderstood. Sorry.

A. Sure.

Q. So AMP had 120 municipalities, and

it would sell power to them, and sometimes have -- well, stop. That's right?

A. That's correct.

Q. And then it would sometimes have excess power, and would sell that power to PJM?

A. That's correct.

Q. Okay. And you were involved in determining the price at which AMP would sell to the member municipalities?

A. I was, but my people basically were doing the calculations.

Q. You weren't involved in the day-to-day process, but you oversaw that?

A. Right.

Q. Okay. And how long were you at AMP?

A. Almost nine years.

Q. Okay. And it says before that you worked at Columbia Gas of Ohio?

A. I did.

Q. Okay. How long were you at Columbia Gas of Ohio?

A. About 25 years.

Q. Okay. Can you describe in a little more detail the nature of your responsibilities at Columbia Gas of Ohio?

A. Initially, out of college, I was assigned to a field location, and I was responsible for the day-to-day interaction with the industrial, major commercial customers in that territory.

Q. Okay. It says here you were responsible for interfacing with customers and retail national gas marketers on issues related to gas costs, gas supply and rates. What does that mean?

A. Gas supply, for that piece of it, during that period there was what initially started out they called self-help gas, and morphed into gas transportation. But customers were starting to develop their own gas supply and/or purchasing from other suppliers. Some -- some of the customers, I would have helped with getting meter installations for them where they were actually drilling their own wells and putting into our system, and handling the logistics of that.

The rates with -- the large-volume rates, especially in competitive situations, where there may have been another pipeline that could compete or another fuel that could compete, you, at times, we called it flexing, you would discount your rate in order to retain them, the customer.

Q. Were you involved in determining prices at which Columbia Gas would sell gas to customers?

A. Yes.

Q. Okay. Describe the nature of your work on those -- in that time.

A. I think I just did, but I'll try again.

Q. Okay.

A. If -- these would have been individual prices for customers that I was handling. Basically, I was their field rep. If a customer -- customer might have a rate of 50 cents per MCF for the gas that they were consuming; many negotiations over the years with individual customers who had a competitive alternative, where you were negotiating a somewhat lower rate than that in order to retain their business.

Q. Okay. Have you ever sponsored expert testimony regarding the allocation of costs among groups of customers?

A. I have to be a little bit careful here because I did testify in a hearing back in the late '80s in a Pennsylvania case, that was a GCR case, and I don't recall the exact content of that testimony.

Q. Okay.

A. But in recent testimonies, I have not.

Q. Okay. Have you ever testified before on the subject of the allocation of -- strike that.

Have you ever testified before at all on the subject of fuel costs?

A. I have been deposed on fuel costs, not too many months ago, by Dayton Power and Light, in a -- a fuel rider -- it was a fuel audit.

Q. Okay.

A. Did not -- filed the testimony. We did not go to hearing; we wound up settling.

Q. Who deposed you? Was it a man or a woman?

A. A man.

Q. Was it Randall Griffin?

A. Randall. I'm ashamed of myself for

not remembering.

Q. Was that the only time that you have testified on the subject of the allocation of -- strike that. Was that the only time you have talked about -- testified before about fuel costs that you can recall?

A. Electric fuel costs.

Q. Yes.

A. I have testified in gas cases in the last three years on GCRs, fuel-related, gas-related costs.

Q. What's a GCR case?

A. It's the gas cost recovery mechanism.

Q. And that would -- strike that.

Now, what's your educational background? Would you provide me --

A. I have a degree in civil engineering from Ohio State.

Q. Okay. The -- can you explain for me what analysis you performed before preparing your opinions that are in your direct testimony?

A. The opinions, for the most part, were derived from responses to discovery, which are attached as attachments to the testimony.

Q. Did you --

A. I did a little scribbling on paper just to make sure what I was thinking was correct, but there was no real work document or anything where I actually laid something out in a spreadsheet and ran any calculations, there is none.

Q. Did you consult any prior Commission decisions before filing your testimony?

A. There were -- and I think that they are mentioned in here, just so I get the proper numbers -- the prior ESP stipulation, which would have been 09 -- or 09-1094.

Q. 08 --

A. 08.

Q. -- 1094.

A. Okay. And then the -- there was a fuel rider, I'll have to -- fuel rider case, 09-1012, which, I believe, where they actually filed for the fuel rider subsequent to the stipulation in the 08-1094 case.

Q. Okay. Is there anything else that you can think of that you reviewed?

A. I believe I did go back and reviewed the -- briefly, the last fuel audit that I was involved with, which I was deposed on, that I mentioned earlier.

Q. Would you turn to Page 9 of your testimony --

A. Okay.

Q. -- starting on Line 9. At the end -- towards the end of the line there is a sentence that says: However, as proposed, the system average method would include the higher fuel and emission costs associated with providing wholesale electric sales to the market. Do you see that?

A. Yes.

Q. And if I understand your testimony correctly, as an initial matter, it's your opinion that The Dayton Power and Light Company should allocate fuel costs to SSO customers using a least cost stacking methodology that excludes DPLER?

A. Correct.

Q. And the reason that you say that the Commission should do so is that the higher fuel and emission costs are associated with providing wholesale electric sales to the market?

A. The least cost stacking methodology,

that's correct.

Q. Okay. Are there any other whys, explanations for why you believe that methodology is appropriate, other than what I have just pointed you to in your testimony?

A. You mean other than the fact that it would provide the captive SSO customers with a lower fuel -- fuel rate? Other than the fact that I believe they are the ones that should -- those customers are the ones that those facilities were built for initially, it seems appropriate.

Q. Are you aware of any statutory obligation that DP&L has to allocate least cost fuel and emission allowances to retail customers?

A. I believe there are. Again, I'm not an attorney.

Q. I understand.

A. But I believe there are some statutes -- I would have to look them up -- that talk about the reasonableness of rates.

Q. Okay. I'm looking for something -- are you aware of anything more specific than something addressing reasonableness of rates that would require specifically that DP&L allocate least cost fuel and emission allowances to retail customers?

A. No, not specifically.

Q. Okay. Are you aware of any Commission rule that specifically requires DP&L to allocate least cost fuel and emission allowances to retail customers?

A. The -- not rule, only the last settlement agreement where that was what was agreed upon. And I'm trying to think --

Q. Just so we are clear, rules, I'm referring to provisions of the Ohio Administrative Code. We will ask about other things. It's a narrow question.

A. Not that I'm aware.

Q. Are you aware -- okay. Other than the Stipulation and Recommendation in the 08-1094 case, which we will come back to, are you aware of any Commission decision that specifically requires DP&L to allocate the least cost fuel and emission allowances to retail customers?

A. No.

Q. Okay. Are you aware of any Commission decision for any electric utility in Ohio that specifically requires the utility to allocate the least cost fuel and emission allowances to retail customers?

A. I'm sorry, could you repeat the question?

Q. Sure. Are you aware of any Commission decision for any utility in Ohio that required specifically that that utility allocate least cost fuel and emission allowances to retail customers?

A. I am sure that was a requirement of the gas GCR rates that -- that Columbia Gas used to file.

Q. You're sure?

A. I'm sure.

Q. What's the basis of your certainty?

A. I was -- that was just common understanding during my time there. I wasn't in the rate department, but I was dealing with customers, and that -- you know, that was an absolute in my recollection of how we would approach selling or pricing the gas cost recovery mechanism.

Q. So tell me how this works. Columbia purchases natural gas at various prices, first of all; is that right?

A. Back in the day, that's correct.

Q. Okay. And you, just so we are clear, you were not in the rates department at the time?

A. No.

Q. You weren't involved in setting or determining rates?

A. That's correct.

Q. Did you testify in any of those cases?

A. Just one.

Q. The GCR case we just talked about?

A. Yes.

Q. Did issues such as allocation of fuel costs to customer classes, was that a subject within the scope of your testimony?

A. I don't recall.

Q. You -- strike that.

You cannot point me, by description, name or title, to any Commission decision that required Columbia Gas to allocate the least cost gas to retail customers, can you?

A. Not here today, no.

Q. Okay. Next question. Other than the stipulation from the 08-1094 case, which, again, we will come back to, are you aware of any agreements that DP&L has entered into that specifically require DP&L to allocate least cost fuel and emission allowances to retail customers?

A. I believe -- as far as an agreement, no. I believe they refer to that in testimony. I believe Witness Marrinan actually refers to a goal or objective of providing least cost fuel purchase power.

Q. So I'm clear, not asking about testimony, I'm talking about agreements or commitments by The Dayton Power and Light Company to allocate the least cost fuel and emission allowances to retail customers.

A. Not that I'm aware.

Q. Not that you're aware?

A. (Witness shaking head from side to side.)

Q. Are you aware of any utility in Ohio that currently allocates the least cost fuel and emission allowances to retail customers?

A. I haven't reviewed any other utilities. I'm assuming you mean electric utilities. But I haven't reviewed any others, so I don't know what they -- what their -- well, let me -- let me -- let me think about that for a second.

For Duke and FirstEnergy, they're both at a hundred percent auction prices for their energy supply, and those auctions would be based on least cost offers. It's a -- it's a descending clock auction, so I believe those would be the lowest cost that was made available in the auction.

Q. Okay. The bidders in those auctions submitted a price for generation to win those auctions; correct?

A. Correct.

Q. They, to your knowledge, didn't bid on which or what fuel costs they would use; correct?

A. They are bidding on an ultimate price.

Q. So the answer to my question was yes?

A. Yes.

Q. And you don't know whether those bidders have used a least cost fuel and emission allowance methodology to write up their bids, do you?

A. They would have used the least cost that they thought they could bid and still get the business.

Q. Well, let me ask it differently. To your knowledge -- that will assume something.

The companies that bid and won, presumably, had and have multiple customers beyond just that single winning bid; right?

A. I would assume.

Q. Okay. Are you aware of any facts that suggest that those companies allocated their lowest cost fuel to the Duke and FirstEnergy auctions, and allocated higher priced fuel that they acquire to other customers?

A. They are presumably for-profit entities, not regulated, and are looking to maximize their profit picture, I'm sure. That's -- if that answers -- maybe I didn't answer the question.

Q. No, it doesn't. Will -- will -- first of all, would you assume that those winning bidders acquire fuel at varying different rates?

A. I would assume they do, yes.

Q. All right. And those winning bidders then use their generation plants to supply power to various different customers; right?

A. Correct.

Q. Okay. Now, are you aware of any facts that suggest that those winning bidders have used their lowest priced fuel that they have had as a basis for determining the amounts that they would bid in those Duke and FirstEnergy auctions?

A. Yes. They are competing for the load, so they are going to use their lowest priced energy that they need to to get the business, which is different than what Dayton Power and Light is doing with their fuel rider. Dayton Power and Light is not competing with that fuel rider, it's a price that they have got out there for those customers that remain on the system.

So I don't think -- I don't think they are the same thing. But I do think that those -- those winning bidders are competing, and they are certainly not able to pick and choose what kind of rate they get or take an average rate. They are going to have to compete, as that clock goes down, until there is no margin left, I mean, for the ones that lose, especially, that wind up not getting any of those tranches that are available.

Q. Well, I think we are talking across each other.

A. Okay. Sorry.

Q. Those winning bidders, you have just established that you assume that they acquire fuel, various different sources at various different prices over time; correct?

A. Correct.

Q. Okay. Now, those winning bidders want to supply not just the Duke and FirstEnergy customers, who they might win the auction, but many other customers across the region or wherever they may be assumed -- may be providing power; correct?

A. It would depend on the supplier, how big their footprint is, but I would assume that's correct.

Q. Okay. So those winning bidders could, rationally, take their lowest priced -- let me step back.

They have fuel that they have purchased at various different prices. And is there any reason that they would use the lowest priced fuel that they purchased to provide service to the Duke and FirstEnergy customers, and use higher priced fuel to determine the prices that they would supply to all of the other customers they are competing to get?

A. Could be.

Q. Do you know that they have done it?

A. I don't know what they have done. I'm just saying that certainly could happen.

Q. Whether it could happen or not, you're not --

A. I'm not aware of any of the bidding strategies of any of those suppliers.

Q. Okay. So you don't know whether the fuel and purchase power that was used by suppliers in the -- who won the Duke and FirstEnergy auctions, if those customers were allocated the lowest cost fuel from the bidders?

A. I don't know if they did and I don't know if they didn't.

Q. Okay. You mentioned that Duke and FE are 100-percent competitive auctions, which raises my next question, really: Are you aware of any utility in Ohio that has ever allocated least cost fuel and emission allowances to retail customers?

A. I have actually not worked on any of the other electric utilities in the state, their fuel cost cases, so I'm not familiar with it at all.

Q. Okay. Are you aware of any unregulated generation providers that allocate their least cost fuel and emission allowances to specific customers?

A. The only way I would be aware of that would be if they actually -- if I actually worked there. The company that I worked for did. That's how we did it. But it was a not-for-profit company, so it was our least cost.

Q. That's actually my next question. Let's talk about AMP-Ohio. Is it AMP-Ohio or AMP?

A. American Municipal Power, AMP.

Q. Okay. Okay. American Municipal Power --

A. Please use AMP.

Q. Okay. AMP had, you told me, approximately 120-some-odd municipalities?

A. They were adding municipalities

pretty -- pretty rapidly, but it was in that range, in the 120s.

Q. And did the price -- strike that.

Did -- I assume, when AMP purchased fuel, that AMP acquired fuel at different times at different prices?

A. That's correct.

Q. So its generating plant, conceivably, could be running on, at the same time, cheap and expensive fuel?

A. That's correct.

Q. And did AMP -- strike that.

AMP then was a not-for-profit entity?

A. Correct.

Q. So it would pass on its costs -- go back to how it calculated its costs -- but its costs to the 120-some-odd municipalities?

A. No, it's a little more complicated than that. Not every municipality would have signed up for receiving power from that facility. You could -- the individual communities had the ability to do sort of a cafeteria approach to -- to their access to assets, generating assets.

So when the -- when that facility

was first -- was purchased -- actually, I think it was an old Union Carbide facility, was purchased by the facility and converted into a generating facility, there were X number of municipalities that got together, not all of the municipalities wanted to do that, and so this is a little bit different than a joint action agency, if you're familiar with others maybe around the country.

In this case only those municipalities that wanted to take power from that facility actually did sign up and take -- or became a party to that project and took power from that project.

Q. Okay. The price that AMP passed on to its customers, I think you -- strike that. I think you have answered this, but let me ask it so I'm really sure.

The price did not include any profit margin for AMP because it was owned by the customers?

A. That's correct.

Q. Okay. Did AMP --

A. Let me strike that. It was actually owned by AMP, but there was a contractual obligation from those individual municipalities to take the power and the associated costs with the facility.

Q. Okay. When AMP was allocating its costs among its customer base, did it allocate its least cost fuel to any particular customer base?

A. Well, the -- the least cost fuel -- or power, I won't say fuel -- but the least cost power coming out of there would have been the first power that would have been provided to the municipalities, and the higher cost would have been -- if there were any available, and there were -- would have been sold into the market, if there was an opportunity to make any money.

Q. So the municipalities had first call on the --

A. Yes.

Q. -- generation coming out of the plant?

A. Yes.

Q. You mentioned some Columbia Gas proceedings earlier where you believed there may have been a least cost allocation?

A. My understanding of how the GCR

process would work, and this was a -- back when I was there, was filed quarterly -- was it was a dollar-for-dollar pass-through. There was no markup. And the prudency of those purchases were audited.

So the effort was always there to find the least cost supply of gas possible.

Q. Okay. I'm not familiar with the gas market, so let me ask you this question, first of all, is when Columbia purchases gas, does it have gas showing up at the same time at varying different prices?

A. Back when there was a GCR, there would have been multiple -- these prices would have been showing up under contracts that could be short-term or long-term in nature, so certainly the price would have varied from these contracts --

Q. Okay.

A. -- short- and long-term.

Q. Because the gas that goes out from Columbia to the customer, it's indistinguishable in whether it was the expensive gas or the cheap gas; it was just depending upon the nature of the contract and the term as to what price would be paid?

A. That's right.

Q. Are you aware of whether Columbia Gas allocated its lower-priced gas, the gas it paid less to acquire, to any specific group of customers?

A. No.

Q. Are you aware of any facts suggesting that DP&L buys lower cost fuel for the purpose of serving retail customers, and buys higher cost fuel for the purpose of serving wholesale customers?

A. Well, my understanding was that DP&L first generated power using the fuel and emission allowances that they were able to acquire, and I believe that they are constantly looking for the lowest cost fuel and, certainly, emission allowances that they are able to buy in order to generate that power.

So I think there is an effort on the company to minimize their costs of generating power, and I believe they said in testimony that the objective was to provide their customers with the least cost power for their fuel rider.

Q. Okay. Let me phrase my question a

little differently. Are you aware of any specific decisions -- strike that.

Are you aware of any facts that suggest that the people at DP&L who make the decisions regarding the purchases of fuel and emission allowances make deliberate decisions to buy or allocate lower cost fuel that they have for the purpose of serving the retail customers, and allocate higher cost fuel that they have purchased to serve wholesale customers?

A. Only what was agreed to in the '08 stipulation.

Q. Did you conduct any studies to support your opinion that the system average method -- strike that.

Did you conduct any studies to support your opinion that higher fuel and emission costs are associated with DP&L providing wholesale electric sales to the market?

A. I think that I'll have to see where that specifically is addressed, but I believe that was responded to in -- in some of the discovery requests that that was indeed -- that the wholesale supply was at a higher price under the current existing fuel rider than the fuel rider itself.

Q. I understand that there is the 08-1094 stipulation, and I'm not asking about that --

A. Okay.

Q. -- about the contractual order there. What I'm asking about, are you aware of any other facts other than this stipulation, first of all, that would suggest that the higher fuel and emission allowance costs were associated with providing wholesale electric sales to the market?

A. I would have to look back through the discovery responses, but if -- if it's there, it would be in the discovery responses. I didn't do any other analysis to determine that.

Q. Okay.

A. If that's what you're asking.

Q. That is what I'm asking.

A. Okay.

Q. There is no additional analysis beyond what's in the discovery responses that you performed?

A. That's correct.

Q. And are the discovery responses that

you're referring to the ones that would be attached to your testimony?

A. There were a number of other discovery responses that I would have used to form my opinions. I'm not sure that they were all -- all of those were not necessarily included in the testimony.

Q. Okay. Do you have those sitting in the file before you?

A. I have got a bunch of them.

Q. Okay. Here is what I'm going to suggest is that we go off the record, I'll give you some time to review the discovery responses attached to your testimony, or the other discovery responses that you have available to you -- and if you believe that you need to find others, that's fine -- but I want to see if you have any additional documents that would support an opinion that the higher fuel and emission allowance costs were associated with providing wholesale electric sales to the market; okay?

A. Okay.

MS. YOST: Jeff, I'll let him take a look at what he has in front of him to see if it refreshes his recollection, but we are not going to do a further hunt than that.

THE WITNESS: Well, I think that I have all the discovery responses related to the fuel rider here.

MR. SHARKEY: Okay.

THE WITNESS: Okay.

MR. SHARKEY: Let's go off the record.

(Recess taken.)

MR. SHARKEY: Let's go back on the record.

BY MR. SHARKEY:

Q. During our 10-or-so-minute break, Mr. Slone, you have perused a number of documents that were sitting in the file before me, and you told me that you have some documents that you would like to identify or discuss in response to my prior question, so would you please do so.

A. If I recall the prior question correctly, it was what did I rely on to make the statement that the system average method would include higher fuel and emission costs associated with providing wholesale electric sales to market; have I accurately restated that?

Q. Yes. And, in particular, I focused

on the latter half -- portion of that that says that the higher fuel and emission costs are associated with providing wholesale electric sales to the market.

A. Okay. In response to OCC Interrogatory 335B, when explaining -- this is Witness Hoekstra -- when explaining the existing fuel rider calculation, said that DP&L's generation and purchase power costs are stacked from lowest to highest, and the fuel purchase power cost for the amount of supply needed to serve the retail customer load would be included in that fuel rate. By -- based on that statement, if the lowest costs are being utilized to supply the retail load, the remaining higher priced fuel and emission allowances would be utilized to supply the wholesale load.

Q. Okay. Let's stop and talk about that one.

A. Okay.

MS. YOST: And just to clarify, you said discovery response 335B?

THE WITNESS: Correct.

MS. YOST: And that's actually attached as GS-1; right?

THE WITNESS: It could be. I just started looking --

MS. YOST: Is that the one you're -- because this is attached (indicating).

THE WITNESS: That is correct.

BY MR. SHARKEY:

Q. Okay. And you understand that DP&L was making that allocation pursuant to the 08-1094 stipulation that we have talked about previously; correct?

A. Correct.

Q. Okay. So that was a result of a stipulation in a prior case?

A. Right. But they said in that stipulation -- based on that stipulation, and what they were doing, that that provided least cost supply to -- to the fuel rider.

Q. Let's be careful. The stipulation, I believe -- tell me if you have a disagreement and we will pull it out -- but it allocates the least cost fuel to retail customers that were defined to be DP&L and DPLER customers?

A. That's correct. They were considering DPLER and the SSO customers to be the retail customers, even though DPLER are not retail customers. But the remaining sales that did not go, that would have been possibly off-system sales --

(The notary interrupted.)

THE WITNESS: The remaining market sales that DP&L would have made, not to DPLER or to their SSO, would have been wholesale sales, either bilateral agreements or to off-system sales, and those would have been -- those wholesale -- what they considered at the time, those wholesale sales would have been at the higher fuel and purchase power.

BY MR. SHARKEY:

Q. Okay. Let's go back, then, to my original question regarding support for the proposition that higher fuel and emission costs are associated with providing wholesale electric sales to the market. You have identified for me the response to Interrogatory 335B, which would have discussed DP&L was allocating higher fuel and emission costs associated with providing power to the wholesale electric sales to the market associated with the Stipulation and Recommendation?

A. Right.

Q. Okay. What's your next -- I believe you identified a number of documents, while we were off the record, so is there something else then you wanted to point me to?

A. There were a couple of others where they were showing that that fuel and emission allowances that were used to provide wholesale sales are included in the proposed system average fuel rider. I'm not sure that sales -- that they are the highest, as much as the one that I just read.

Q. Okay. Do you have numbers for me, and can I see them?

A. That one was in response to OCC 376, and I believe I have it here.

MS. YOST: Let me see it here.

BY MR. SHARKEY:

Q. So 376, the question was: Are the fuel and emission allowance costs that could be used to provide wholesale sales associated with DP&L-owned energy supply resources included in the system average cost methodology in the proposed fuel rider? And then DP&L's answer was: Yes. Please also see response to Interrogatory 336E, and the document produced OCC 23, fuel rider consolidated response summary, for further explanation.

And can you explain to me why that shows that higher fuel and emission costs are associated with providing wholesale electric sales to the market?

A. Well, in conjunction with that, the next -- you should have it there -- the very next number, OCC INT 377, the question about fuel emission allowances being used to provide wholesale sales are not included in the existing least cost fuel rider. And that's one of the reasons that I believe that actually is referred to by the company in their fuel rider summary response for why the system average cost method gave a higher -- would tend to give a higher price than a least cost method.

Q. Other than -- sorry. Any other interrogatories that you wished to identify for me, or documents?

A. I believe those are the only ones I relied on.

Q. Other than the 08-1094 stipulation and DP&L's implementation of that stipulation, are you aware of anything else that suggests that higher fuel and emission costs are associated with providing wholesale electric sales to the market?

A. No, I believe those are the -- I believe those are the last three cases for -- those two cases and this case would be the last three cases that would have anything to do with the fuel rider for some time prior to the stipulation in 08-1094. I believe there had been a number of years where there wasn't a fuel rider, if I recall correctly.

Q. So I think I understood, but I want to make sure that I accurately understood your question -- the answer. The question is: Other than the 08-1094 stipulation, and then the resulting methodology that it established --

A. Right.

Q. -- and that DP&L implemented, are you aware of anything else that suggests that higher fuel and emission costs are associated with providing wholesale electric sales to the market?

MS. YOST: I'm going to object to the use of the word suggest.

But go ahead.

THE WITNESS: The language that was presented in response to the discovery requests that we had discussed earlier.

BY MR. SHARKEY:

Q. And is it true that those, as you understand them, describe DP&L's implementation of the 08-1094 stipulation?

A. Yes.

Q. If I understand your testimony correctly, that if DP&L -- well, strike that.

Do you have an opinion regarding whether DP&L would recover all of its fuel costs if it used a system average methodology?

A. I'm not sure they would.

Q. And why do you say that?

A. I don't know what that contract between DP&L and DPLER, how it's structured, and so I don't know if that contract is selling their power produced at a price lower than it costs them to produce it or higher.

Q. Let's assume that that contract price between DP&L and DPLER is at a market-based rate.

A. I'm not sure what market-based, if you could help me to understand market-based rate. Are you saying at market at a particular hub at a particular time, or whatever the market is plus or minus an adder, or -- I've been struggling with that particular statement for a couple months now.

Q. Okay. We will say the same price that Dayton Power and Light Company could sell into PJM.

A. If they -- if they could sell it into PJM and get -- if they get the same price from their sale to DPLER that they could get by selling into the wholesale market, I don't understand why they would put themselves into this position of just not letting DPLER go to the wholesale market and buy it. That's the -- one of the confusing things.

But assuming for a minute that they are -- for whatever reason they want to sell their power to DPLER at the same price they could get in the wholesale market, then I would -- I would assume that they would be backing off on generation that was not cost effective, that was below market -- if it cost them more to generate it, they wouldn't be selling into the wholesale market at a loss. And I assume that they would recoup all of their costs to their SSO customers through the fuel rider. I'm just not sure I can say that they would definitely recoup all of their costs in -- in their sales, their wholesale sales, or their -- at the time -- retail sales to DPLER, what they considered retail sales to DPLER. I don't know.

Q. Let me ask the question differently. Are you aware of any reason to believe that DP&L would not recover all of its fuel costs if its sales to DPLER were at a market rate identified earlier?

A. Sure. If you can sell it to DPLER at a cost that allows DPLER to maximize their revenues to their customers, and then come back and say we are losing money on the -- we are not making the profit we need to on our regulated utility, and we need certain stability charges to get us to where we need to be, I think that would be a strong incentive to sell to your affiliate at below-market prices.

I'm not saying that's happened. You asked a question. I'm saying that would be a strong motivator to do it.

Q. I think that is not the question I

thought I asked, so let's start over.

A. I'm sorry.

Q. I may have misspoke, maybe you misunderstood, but I definitely -- that's not the question I intended to ask.

A. Okay.

Q. So the question is: I want you to assume that DP&L sells to DPLER at market rates, as I have defined them earlier. And the question to you is, then, with that assumption, are you aware of any reason to expect that DP&L would not recover all of its fuel costs, if it were to use a system average cost methodology?

MS. YOST: I'm going to object to incomplete hypothetical.

Go ahead and answer if you can.

THE WITNESS: Can you read that one more time? I'm sorry. Hypotheticals present struggles for me to follow.

BY MR. SHARKEY:

Q. It's easy to ask but hard to answer.

(Record read.)

THE WITNESS: They are -- if they are selling -- I can't imagine why they would do this, but if Dayton Power and Light sold power at market rates that was below their cost to produce that power, they would not -- I would not think they would be able to recoup their full cost of fuel.

BY MR. SHARKEY:

Q. I understand that example.

A. Okay.

Q. Any other situations than that one?

A. Probably.

Q. Any that you can think of as you sit here?

A. No.

Q. Are you aware of any reason to suspect that DP&L is selling power at market rates when the market rates are lower than DP&L's costs to produce?

A. There are some things that cause me to suspect that they are selling power to DPLER below what they might otherwise be able to sell that power in the market.

Q. What are those items?

A. The profitability of DPLER and the whole unregulated -- which would include MC square, I suppose -- but the profitability of that company prior to January 1, 2010, when there was a -- when they were operating under one contract between DP&L and DPLER, if I can use DPLER; and then on January 1st, 2010, a new contract went into place, and that new contract produced -- and I'm going to approximate here, if I can -- I believe in 2009, prior to that contract, the unregulated affiliates made less than a million dollars' gross margin.

In 2010, the first year of that contract, that number was in the range of 35 million. The following year, in 2011, it was around 61 million. And this year, I believe in 2012, it was around 65 million. So they got either very smart or very -- or they had -- they got very smart in how they marketed, which is possible, or they had -- they had access to pricing that was lower than what most other people in the territory had for that same power. That's the way it looked to me.

Q. First of all, you have not done any comparison of the prices at which DP&L sold power to DPLER over the years; correct?

A. I am basing it solely on what I just stated, the fact that the contract changed, and I have not been privy to either the prior contract or the current contract, but the contract did change, and that was the date it changed. And when you compare the profitability prior to January 1, 2010, so 2009 was the only other year I looked at, and then after January 1, 2010, there is a significant change.

I don't know of any other factor that would have led to that, but I'm not saying there is not. I'm saying I don't know any other factor that could have led to that.

Q. If the price -- sorry, what was the date you have been citing?

A. January 1, 2010.

Q. If the price before January 1, 2010, at which DP&L sold power to DPLER was above market, and then after that date was at market, would you expect to be seeing the same increase in DPLER's profitability as you just cited?

A. I believe I recall reading that the contract prior to January 1, 2010, was based upon -- approximately based upon the price that the -- that DPLER was getting -- had negotiated with their -- with their customer.

Q. Okay. Which you understood to be above the market prices?

A. Yes.

Q. So --

A. I'm sorry, above the wholesale price. I would expect it to be approximately at market price because that's what it took DPLER -- that was the price it took DPLER in order to acquire that customer.

Q. In any event, let me move back to sort of the main point that I was -- before we sort of walked off on this tangent. Under your proposal, prices charged to retail customers would be lower than if DP&L used a system average cost methodology to allocate fuel costs; correct?

A. Yes.

Q. That's the reason that you propose it; correct?

A. Yes.

Q. Okay. And since prices to retail customers are lower, that means that DP&L's revenues from those retail customers are lower; correct?

THE WITNESS: I'm sorry, could you read that one more time.

(Record read.)

THE WITNESS: If DP&L -- I would

assume that that's correct, if DP&L is selling power today at lower prices than they were able to get a year ago, two years ago, then their revenue would be lower as well.

BY MR. SHARKEY:

Q. I think I understood your answer, but let me make sure I do.

A. Okay.

Q. The -- your proposal results in a lower cost to residential customers than a system average cost; correct?

A. It wouldn't just be residential customers, it would be any SSO customer.

Q. So if I change the word to retail customers, my answer is correct -- your answer is correct?

A. Yes.

Q. And it thus results in lower revenue to DP&L?

A. If -- lower revenue from that group of SSO customers, yes.

Q. You'll have lower revenue from the retail customers?

A. Yes.

Q. Now, when it sells to wholesale

customers, it needs to do so at market rates; correct?

A. I would assume, yes.

Q. Are you aware of any ability for DP&L to go to the wholesale market and ask wholesale customers to pay a premium associated with the fact that retail customers were allocated the least cost fuel and emission allowances available to DP&L?

A. No, I can't think of a reason.

Q. So it would be your expectation that the end result of your proposal is lower revenue to DP&L than would be available under the system average cost methodology?

A. At least lower revenue from those SSO customers, (witness nodding head up and down).

Q. And you're not aware of anyplace they could make up that revenue?

A. I'm not aware, but I'm not -- I'm also, you know, not privy to the company --

Q. And under your methodology, is it true that DP&L would be unable to recover all of its fuel costs?

A. I -- I believe -- I know we are

having a bit of a communication issue here or I'm not hearing exactly, but I believe they could still -- if this is the question -- that they would still be able to recover their fuel costs with a system average or with a least cost methodology.

Q. And how could they do that?

A. Selling into the market when their prices are below the wholesale market price for power. Right?

Q. Right. I think we just talked about the fact that DP&L is going to be selling into the market at a market price; correct?

A. Right, if they are going to sell into it. If I understood your question correctly, you were saying that if we go with what I was proposing, of the least cost methodology for the SSO customers, and that DP&L had to sell their remaining power that they generate with their higher cost fuel and emission allowances, and they had to sell that into the marketplace at market prices, would they be able to recoup their fuel and emission allowance costs, was that -- was that the question?

Q. Would they be able to recoup all of

them.

A. And I would say they would be able the recoup them all. They might not generate as much power initially, but -- and they might not make as much money as they would with a system average price method, but to the extent that they are only generating into the market when their price to generate is profitable and recoups all of their costs, plus a margin, then they should be able to recoup all their costs.

Q. Are you aware DP&L has filed testimony in this case -- strike that.

You have told me that they would have lower sales because the higher-priced fuel is being allocated to the retail market -- to the wholesale market, rather; is that fair?

A. They would have lower -- I'm sorry, I'm not -- I'm really not understanding that question.

Q. I believe you told me that the reason that DP&L would recover all of its fuel costs is -- under your proposal -- is that DP&L would continue to sell power, but it may have smaller amounts of sales?

A. It might have smaller margins and/or

smaller sales.

Q. Are you aware that Dayton Power and Light Company has filed testimony in this case regarding its financial integrity?

A. Yes.

Q. Okay. And that it has proposed a service stability rider to help it to maintain its financial integrity?

A. I am aware of the service stability rider, yes.

Q. Do you -- and you understand DP&L's calculations of its financial needs were based upon, among other things, the assumption that it would be allocating fuel costs based upon a system average methodology?

A. That was the proposal for the fuel rider, yes.

Q. Okay. Have you done any analysis to determine what impact your proposal would have on DP&L's financial integrity?

A. I don't think I have the skill sets to make that calculation. I have looked at some things that make me question the company's statement of below market -- or statement of low returns based on not having that stability rider.

Q. I'm at this point focusing on opinions that you sponsor.

A. I didn't sponsor anything about the stability rider.

Q. And you haven't done any -- aside from whether you sponsored something, you haven't done any analysis to determine what effect granting your request would have on DP&L's financial integrity?

A. I haven't done any analysis.

Q. Okay. If the Commission were to accept your proposal, do you believe that DP&L should be entitled to add to its proposed service stability rider the amounts of any profits it would lose between the difference between using a system average cost and a least cost methodology?

A. No.

Q. Why not?

A. First of all, I am less than convinced of the proposed rate of returns that have been forecasted in some of the meetings we have had here and some of the discussions that have been ongoing in settlement. I saw what happened, so I'm basing it on history, I saw what happened in the last ESP. There was a settlement in that case. DP&L came in and they had their expert witness testify that their target -- what was an appropriate rate of return was 11.3 percent for a company like DP&L.

Subsequently, there was a stipulation in that rate, and in that stipulation there was a clause that said due to the concessions made by DP&L, there was no need for SEET, a SEET evaluation, because they were gonna be -- because of their concessions, they were obviously going to be well below that. So to me, they weren't even -- because of their concessions, they weren't even going to be able to make their 11.3 rate of return.

So the first year of that settlement was 2010. Their rate of return was 20 percent. I really struggle -- I believe that rates of return, there are ways to manipulate that number. You can invoke cost savings through operations, things can be deferred, market -- the market could go up; there are a lot of things that can affect that rate of return.

And I am disappointed that there seems to be a desire by DP&L to have a guarantee, and every time it looks like they are not going to make as much money because of a particular clause or something changing, they want a stability rider to get them back to a level that they have calculated that they need.

And based on prior performance, the prior ESP, I don't have much faith in the company's numbers.

Q. Okay. Other than lack of faith in the company's numbers, do you have any other reason for opining that the amounts lost due to implementation of a least cost fuel methodology, that those amounts lost from implementing that should not be included in the SSR?

MS. YOST: Object. Mischaracterizes his testimony previously that -- he has never testified that there would be amounts lost with a least cost methodology.

But go ahead and answer if you can.

THE WITNESS: I mean, I based that statement on what I saw happen. I mean, it's based in fact on what was in the testimony of what happened. I think that is a fair reason to be skeptical of the numbers that are out there, that are being tossed around today.

BY MR. SHARKEY:

Q. The question to you was: Other than that reason, are there any other reasons that you believe that it would be inappropriate to result in any declining revenue for DP&L from switching from a system average cost, as proposed in its filing, to a least cost methodology, as you proposed?

A. One other reason, and that would be that I think there are ways that the company can improve their current financial projections from what's been stated. They just -- they have -- they have things at their disposal that they can do to improve their financial position going forward through the term of this ESP, rather than simply increasing the stability rider to guarantee that they meet certain targets.

Q. Have you done any specific analysis to determine whether DP&L's projections in this case are reasonable?

A. I just told you that -- I think I told you that I hadn't done any analysis, it was strictly based on past performance.

Q. Have you done any analysis to determine whether DP&L's cost estimates in this case are reasonable?

A. Cost estimates for --

Q. Estimates of any of its expenses in this case?

A. No.

Q. Have you done any analysis to determine whether DP&L's request for a financial integrity rider is reasonable?

A. I have not done any analysis one way or the other on it.

Q. Did you do any analysis to determine if least cost methodology is always lower than system average cost?

A. Logically, it would appear to me that it would be, especially given the fact that it should be, with the significant amount of switching that's currently happened in DP&L's territory, they should be able to supply their existing SSO load with generation, and there would be minimal, if any, purchase power necessary. And so I think that given that, if you're using a stacking principle, going from the least cost to an average cost, I think least cost is always cheaper than an average cost.

MR. SHARKEY: Okay. Let's go off the record.

(Recess taken.)

MR. SHARKEY: I'm done.

MS. YOST: If the transcript is ordered, we will read and sign and make all necessary changes. And you can just send it to me if it's ordered.

(Thereupon, an off-the-record discussion was held regarding procedures for obtaining signature.)

(Thereupon, the deposition was concluded at 4:05 o'clock p.m.)

I, GREGORY SLONE, do hereby certify that the foregoing is a true and accurate transcription of my testimony.

_ _ _ _ _ _ _ _ _ _ _ _ _ _

Dated _ _ _ _ _ _ _ _ _ _ _ _ _ _

STATE OF OHIO)
COUNTY OF MONTGOMERY) SS: CERTIFICATE

I, Beverly W. Dillman, a Notary Public within and for the State of Ohio, duly commissioned and qualified,

DO HEREBY CERTIFY that the above-named GREGORY SLONE, was by me first duly sworn to testify the truth, the whole truth and nothing but the truth.

Said testimony was reduced to writing by me stenographically in the presence of the witness and thereafter reduced to typewriting.

I FURTHER CERTIFY that I am not a relative or Attorney of either party, in any manner interested in the event of this action, nor am I, or the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office at Dayton, Ohio, on this 12th day of March, 2013.

BEVERLY W. DILLMAN, RPR, CRR
NOTARY PUBLIC, STATE OF OHIO
My commission expires 3-6-2017